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ABSTRACT

The document summarizes changes in the Education of the Handicapped Act (EHA) legislation under Public Law 99-457 which provides a new federal early intervention program, for infants and toddlers. Eligible population and timelines for receiving funds are defined and the Individualized Family Service Plan and other provisions required by the legislation are described, as are changes and refinements in the Early Education Discretionary Program (Part C of EHA). Detailed next are provisions for a new federal preschool program which increases federal contributions under P.L. 94-142, the Education for All Handicapped Children Act, to support the education of handicapped children aged 3 through 5. Finally, amendments to the EHA other than early childhood are summarized in relation to such topics as multiple agency participation, technology, personnel development, parent training centers, and the establishment of a National Clearinghouse for Careers in Education of Handicapped Children and Youth. The report concludes with a chart showing fiscal 1987 EHA appropriations in relation to 1986 appropriations and 1987 authorizations. (JW)

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[P.L. 99-457 Amendments to the Education of the Handicapped Act (EHA)]

1986

Council for Exceptional Children
Department of Governmental Relations

EC 190938

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NEW FEDERAL EARLY INTERVENTION PROGRAM UNDER P.L. 99-457

1986

Objective

Establishes a new state grant program for handicapped infants and toddlers, ages birth through two years, for the purpose of providing early intervention services for all eligible children as defined by the legislation. This program appears as a new Part H of the existing Education of the Handicapped Act (EHA).

Eligible Population

The legislation defines the eligible population as all children from birth through two years of age who are developmentally delayed (criteria to be determined by each state), or with conditions that typically result in delay, or (at state discretion) are at risk of substantial developmental delay.

Timelines

To receive a grant for the:

First Two Years: The Governor must designate a lead agency (there is state discretion respecting which agency is designated) for overall administration of the program.

The Governor must also establish an Interagency Coordinating Council composed of relevant agencies, consumers, and providers. This Council is to assist in the development and implementation of the state applications, as well as assist in interagency agreements and the identification of resources, and is to otherwise advise the state. The Council may also serve as the lead agency.

Third Year: The state must demonstrate that it has adopted a public policy which provides all of the components of a statewide system for providing early intervention services to all eligible infants and toddlers.

Fourth Year: The state must demonstrate that it has in effect a statewide system for providing early intervention services. The state must also provide for all eligible children the following: multidisciplinary assessments, individualized family service plans, and case management services.

Fifth and All Succeeding Years: The state must make available to all handicapped infants and toddlers within the state appropriate early intervention services.

Early Intervention Services

Early intervention services must include, for each eligible child, a multidisciplinary assessment and a written Individualized Family Service Plan (IFSP) developed by a multidisciplinary team and the parents. Services which may be provided must be designed to meet developmental needs and may

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include special education, speech and language pathology and audiology, occupational therapy, physical therapy, psychological services, parent and family training and counseling services, transition services, medical services for diagnostic purposes, and health services necessary to enable the child to benefit from other early intervention services. Case management services must be provided for every eligible child and his/her parents.

All early intervention services must be provided at no cost to parents except where federal or state law provides for a system of payments by parents, including provision for a schedule of sliding fees.

The Individualized Family Service Plan (IFSP)

The IFSP must contain: (a) a statement of the child's present levels of development (cognitive, speech/language, psychosocial, motor, and self help); (b) a statement of the families strengths and needs relating to enhancing the child's development; (c) a statement of major outcomes expected to be achieved for the child and family; (d) the criteria, procedures, and timelines for determining progress; (e) the specific early intervention services necessary to meet the unique needs of the child and family including the method, frequency and intensity of service; (f) the projected dates for the initiation of services and expected duration; (g) the name of the case manager; and (h) procedures for transition from early intervention into the preschool program.

The IFSP must be evaluated at least once a year, and must be reviewed every six months or more often where appropriate.

Use of EHA Funds

Federal funds under this program are to be used for the planning, development, and implementation of the statewide system for provision of early intervention services. Funds may also be used for the general expansion and improvement of services. However, in the provision of actual direct program services, federal funds under this program shall be the "payor of last resort," i.e., EHA funds may not be used when there are other appropriate resources which can be used or are being used, whether public or private, whether federal, state, or local. This provision emphasizes the critical importance of achieving efficient and effective interagency participation in each state.

Other Provisions of the New EHA, Part H

- Each state must submit an annual application which includes the necessary assurances based upon the timetable just mentioned. At the appropriate time, that annual application must specify the role and financial contribution of each participating agency and must provide a description of the state's procedural safeguard system when complaints are brought by parents.

- Funds under this program will be allocated to the states based upon their relative number of children birth through two years, i.e., a census-based allocation and not an allocation based upon numbers of children served. Fifty (50) million dollars is authorized for fiscal

year 1987, $75 million for fiscal year 1988, and "such sums as may be necessary" for the following years.

- Provision of all services must be by qualified personnel, and the state must have a system for the establishment and maintenance of standards, certification, and licensing policies.

- The state planning, development, and implementation grants under the prior EHA, Part C, (as authorized in P.L. 98-199) are repealed. The committee report accompanying P.L. 99-457 emphasizes that the activities under that previous authority will continue to be supported under this new EHA, Part H, as well as under the new Preschool Grant.

- The U.S. Secretary of Education and the U.S. Secretary of Health and Human Services are required to conduct a joint study of federal funding sources and services for early intervention programs and are ordered to facilitate interagency coordination of federal resources. They are to report their findings and actions to the Congress within 18 months from the enactment of P.L. 99-457.

EARLY EDUCATION DISCRETIONARY PROGRAM
EHA, PART C, SEC. 623 (also known as HCEEP)

P.L. 99-457 reaffirms the proven components of the EHA Part C early education authority and refines that authority to maximize support toward achieving the objectives of the new early intervention and preschool initiatives.

- Experimental, demonstration, and outreach programs are authorized, with priority given to outreach and demonstration with respect to three through five year old children.

- Projects designed to demonstrate cost effective methods are encouraged.

- A technical assistance developmental system is authorized, which system shall provide support to the experimental, demonstration, and outreach programs under this authority as well as support to state agencies.

- Early childhood research institutes are authorized to carry out sustained research to generate and disseminate new information on early education.

- The state planning, development, and implementation grants authorized through P.L. 98-199 are repealed in light of the new EHA, Part H, and the revised EHA, Sec. 619.

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NEW FEDERAL PRESCHOOL PROGRAM UNDER P.L. 99-457

All the rights and protections of P.L. 94-142 (EHA, Part B) are extended to handicapped children ages three through five years in school year 1990-91. To support the achievement of this objective, the prior Preschool Incentive Grant program (P.L. 94-142, Sec. 619) is revised to reflect authorization of a dramatic increase in the federal fiscal contribution for this age group.

- By school year 1990-91, all states applying for P.L. 94-142 funds will have to assure that they are providing a free appropriate public education to all handicapped children ages three through five. Failure to comply will mean the loss of the following:

  - the new Preschool Grant;
  - monies generated under the larger P.L. 94-142 formula by the three through five population served; and
  - grants and contracts related to preschool special education authorized under the EHA discretionary programs, Parts C through G.

- The states are not required to report children served three through five years by disability category. Thus the states are not required to categorically label these children because of the data collection requirements of EHA, Sec. 618.

- The committee report accompanying the legislation states that family services play an important role in preschool programs and that whenever appropriate and to the extent desired by the parents, the preschooler's individualized education program (IEP) will include instruction for parents.

- The committee report affirms variations in length of school day and range and variety of preschool programs, examples being part-day home-based, and part or full-day center-based.

- This program will be administered through the state education agency and local education agencies. However, SEA's and LEA s may contract with other programs, agencies, and providers in order to provide a range of service models.

- The federal authorization levels are: (track a) $300 for each 3 through 5 year old handicapped child served in the previous school year; and (track b) a maximum of $3,800 for each 3 through 5 year old the state intends to serve in the coming year beyond the previous year's count. These are authorization levels only. The Congress must still appropriate the actual amounts each year, commencing this year.

The basic amount authorized under track a escalates:

- FY 87 (school year 87-88) $300 per child
- FY 88 (school year 88-89) $400 per child
- FY 89 (school year 89-90) $500 per child
- FY 90 (school year 90-91) $1,000 per child (track b for unserved ends)
- thereafter $1,000 per child

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In each year, children counted as unserved (track b) are only those beyond the previous year's count. Children counted in the first year under track b would generate funds under track a in the second year.

Example:

1st year — State A serves 1,000 3-5 year olds this year and reports it will serve 250 more in first year. Under formula state A receives:

1,000 x $300 = $ 300,000
250 x $3,800 = $ 950,000
$1,250,000

2nd year — Serves 1,250 3-5s in first year. Reports it will serve 250 more in second year. Under formula state A receives:

1,250 x $400 = $ 500,000
250 x $3,800 = $ 950,000
$1,450,000

3rd year — Serves 1,500 3-5s in second year. Reports it will serve 250 more in third year. Under formula state A receives:

1,500 x $500 = $ 750,000
250 x $3,800 = $ 950,000
$1,700,000

4th year — Serves 1,750 3-5s in third year. Must be serving all children by then. Under formula state A receives:

1,750 x $1,000 = $1,750,000

- The full service mandate is delayed for one year until school year 1991-92 if:
  - federal appropriations for this program for FY '87, '88, and '89 do not total $656 million (projected full funding); and
  - the federal appropriation for FY '90 is less than $306 million ($900 per child)
- The in-state distribution of federal funds under this new Preschool Grant is:
  - FY '87 — 5% SEA Administration, 25% SEA Discretion, 70% LEA's and IEU's (IEU - Intermediate educational unit)
  - FY '88 and beyond — 5% SEA Administration, 20% SEA Discretion, 75% LEA's and IEU's

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P.L. 99-457 AMENDMENTS TO THE EDUCATION OF THE HANDICAPPED ACT (EHA) OTHER THAN EARLY CHILDHOOD

Multiple Agency Participation

P.L. 99-457 contains critical amendments to P.L. 94-142 (EHA, Part B) aimed at strengthening the basic legal framework of P.L. 94-142 in which, while the state education agency is ultimately accountable, multiple agencies are expected to pay for services. (The committee report cites health, welfare, and other social service agencies, along with educational agencies.)

These amendments include:

- required defining of financial responsibilities of each agency in the state plan;
- procedures for resolving interagency disputes, including procedures under which local education agencies may initiate proceedings in order to secure reimbursement from other agencies;
- prohibition against reduction in fiscal contributions under certain other federal programs (including Medicaid); and
- non-supplanting provisions enlarged to include non-educational resources.

Technology, Media, and Materials

P.L. 99-457 creates a new Part G in the Education of the Handicapped Act (EHA) which is designed to promote the use of new technology, media, and materials in the education of handicapped students. The discretionary grants under this new authority are targeted to the following:

- assessment of usage and promotion of effectiveness;
- design and adaptation of new technology, media, and materials;
- assistance to public and private sectors in development and marketing; and
- dissemination of information.

National Clearinghouse for Careers in Education of Handicapped Children and Youth

P.L. 99-457 amends the EHA in order to establish a new national clearinghouse for the purposes of:

- collection and dissemination of information on personnel needs in education of handicapped children and youth;
- provision of information on career opportunities;
- provision of information on personnel training programs;
- linkage of qualified personnel to job opportunities; and
- assistance to institutions of higher education to meet state and professionally recognized standards.

Special Populations

The committee report emphasizes support under all of the EHA discretionary programs (EHA, Parts C through G) toward the improvement of programs and services for minority handicapped children and youth. P.L. 99-457 also amends the evaluation section of the EHA (Sec. 618) to require that the annual report to the Congress in calendar year 1989 include special sections addressing the provision of a free appropriate public education in rural areas and to migrants, children and youth of limited English proficiency, American Indians, Native Hawaiians, and

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other native Pacific basin children and youth. Further, a minority research institute on language proficiency is authorized.

Regional Resource Centers

P.L. 99-457 amends the authority for the regional resource centers (EHA, Part C, Sec. 621) to provide for early intervention and preschool activities, as well as assistance in developing grant writing skills. Provision is further made that the services provided by the centers must be consistent with priority needs identified by the states. Finally, a new center on national priorities is authorized. (Note: Provision is made throughout the EHA discretionary programs, Parts C through G, for appropriate programs and activities to support the new early childhood initiatives of P.L. 99-457.)

Secondary Education and Transitional Services

P.L. 99-457 amends the authority for secondary education and transitional services (EHA, Sec. 626) to clarify that programs can serve not only handicapped youth currently in school but also handicapped youth who recently left school. The bill also clarifies the concept of "transition" to denote services that are provided throughout a handicapped student's years in school. The improvement of vocational and life skills is emphasized, and studies of handicapped youth dropouts are ordered.

Personnel Development

P.L. 99-457 amends the personnel training authority (EHA, Part D, Sec. 631) to provide that 65 percent of funds under this section must be directed to personnel development in the major categories of special education and the related service disciplines. The legislation directs the Secretary, in making grants, to base determinations on information relating to the present and projected need for the personnel stemming from identified shortages and also to base determinations on the capacity of the particular institution or agency to train qualified personnel. Grants to state education agencies (EHA, Part D, Sec. 632) are expanded to include institutions of higher education.

Parent Training Centers

P.L. 99-457 places particular emphasis in amendments to the Part D parent training authority on meeting the unique training and information needs of parents of handicapped children who are members of groups that have been traditionally underrepresented. Also, priority is given to establishment of new parent centers in unserved areas. Further, centers may train persons who work with parents, including educational personnel.

Research

P.L. 99-457 amends the research authority (EHA, Part E, Sec. 641) to place special emphasis on research respecting developmental scales as well as research concerning the coordination of special and regular education. The committee report also cites the need for research focused on certain groups of handicapped children who are "at risk" of school dropout, delinquency, low-achievement, and vocational and interpersonal problems.

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EDUCATION OF THE HANDICAPPED ACT (EHA)
FISCAL 1987 APPROPRIATIONS IN RELATION TO FISCAL 1986 APPROPRIATIONS
AND FISCAL 1987 AUTHORIZATIONS
(in millions)

	FY 1986 Appropriations* (With 4.3% Sequestration)	FY 1987 Authorizations	FY 1987** Appropriations
EHA			
• P.L. 94-142 State Grants	$1,163.28	formula	$1,338.00
• Preschool Grants	28.71	formula	180.00
• Early Intervention Initiative	---	50.00	50.00
• Deaf-Blind Centers	14.12	15.90	15.00
• Severely Handicapped Projects	4.78	5.30	5.30
• Early Childhood Education	22.96	24.47	24.47
• Secondary Education and Transitional Services	6.32	7.30	7.30
• Postsecondary Education Programs	5.26	5.90	5.90
• Innovation and Development	16.08	18.00	18.00
• Technology	---	10.00	3.50
• Captioned Films and Educational Media	16.67	15.00	15.00
• Regional Resource Centers	6.02	6.70	6.70
• Clearinghouses	1.06	1.20	1.20
• Personnel Development	61.15	70.40	67.70
• Evaluation and Special Studies	3.09	3.80	3.80
EHA Total	$1,349.50		$1,741.87
Chapter 1 (P.L. 89-313)			
• State Operated Programs-Handicapped	$143.71	formula	$150.17

*March 1, 1986, sequestration under the authority of Gramm-Rudman-Hollings (G-R-H).
**Final House and Senate agreement.

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